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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,491	07/10/2003	John W. Curry III	200300844-1	2840

7590 01/03/2005
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

DESTA, ELIAS

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/617,491

Applicant(s)

CURRY, JOHN W.

Examiner

Elias Desta

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-22 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Drawing

2. The drawing is objected to because of the following minor informalities:
 - Fig. A1: the contrast in the drawing should be changed to a lighter background to enhance the readability quality of the text noted in each box. A white background with a darker text is preferable. Correction is required.

Double Patenting

3. Claims 1-13 and 15-22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 6, 7, 9, 13-16 and claims 17-24 of copending Application No. 10/376,436 respectively.

In reference to claims 1-13: Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to

one having ordinary skill in the art that the function for providing a diagnostic monitor, where the diagnostic monitor being configured to be capable of executing a trap even if the OS (Operating System) kernel fails to execute, as noted in claim 1 of the instant application would serve the same purpose as of the monitoring system (noted in claim 1 of 10/376,436) where the system decides that if a trap is encountered during execution of user application where the diagnostic monitor is handled by the OS kernel and then the trap is passed to the operating system kernel for handling. If the operating system fails, diagnostic monitor would handle the trap. Further, both the instant application and the parent case claim that OS Kernel and the diagnostic monitor have the same structure, i.e., the diagnostic monitor could function with or without the OS Kernel.

The remaining claims 2-13 of the instant application are equivalent to claims 3, 6, 7, 9 and 13-16 of Application No. 10/376,436 except that claim 4 of the parent case or 10/376,436 includes an error call which necessarily includes a monitor (or a system call).

In reference to claims 15-22: claim 15 of the instant application uses the phrase “fails to execute” whereas claim 17 of Application No. 10/376,436 uses the word “crashes” as it related to the operating system kernel functionality. The function or the objects built to execute a code that signals the presence of some type of failure in the operating system kernel actually results in crashes once the code tries to clean or

set the clean function, hence the two terms are inseparable actions that always coexist when it comes to computer programming scheme.

The remaining claims 16-22 are equivalent or read onto claims 16-24.

Claim Objection

4. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Citation of pertinent prior art:

- Schoinas et al. (IEEE Article, 'Address Translation Mechanisms in Network Interface') teaches a case study of minimal messaging and critical list that a network interface should satisfy for minimal messaging.
- Guyer et al. (U.S. Patent 4,591,972) teaches data processing system with unique micro-code control.
- Caulk, Jr. et al. (U.S. Patent 6,341,324) teaches exception processing super-scalar microprocessor.
- Wilson et al. (U.S. Patent 6,714,976) teaches system and method for monitoring distributed applications using diagnostic information.

- Mann (U.S. Patent 6,314,530) teaches processor having a trace access instruction to access on-chip trace memory.
- Rashid et al. (IEEE Article, 'Mach: A system Software Kernel') teaches overall view of a Mach operating system as a system software kernel, which can support a variety of operating system environment.
- Knapp, III et al. (U.S. Patent 6,253,317) teaches method and apparatus for providing and handling traps.
- Bugnion et al. (U.S. Patent 6,075,938) teaches virtual machine monitors for scaleable multi-processors.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elias Desta whose telephone number is (571)-272-2214. The examiner can normally be reached on M-Thu (8:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9306 for regular communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)-272-1750.

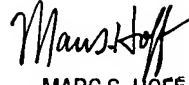
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Art Unit: 2857

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Elias Desta
Examiner
Art Unit 2857

-ed

December 15, 2004


MARC S. HOFF
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800